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UNIVERSITY OF MICHIGAN LAW SCHOOL

*The
Thomas M. Cooley
Lectures*



Tenth Series

The Use of International Law—A Re-examination

PHILIP C. JESSUP

*Hamilton Fish Professor of International Law
and Diplomacy, Columbia University*

4:15 P.M.

FEBRUARY 27, 28, MARCH 3, 6, AND 7, 1958

HUTCHINS HALL, ROOM 100 — ANN ARBOR, MICHIGAN



THE THOMAS M. COOLEY LECTURES

THOMAS M. COOLEY was one of the three members of the first faculty of the University of Michigan Law School, when it was organized in 1859. In 1864 he became a justice of the Supreme Court of Michigan, and held that office until 1885, continuing also as a member of the Law Faculty. In 1871 he became Dean of the Law School. In addition to his duties on the bench and in the class room, he made many important contributions to legal literature. His treatises on "Constitutional Limitations" and on "Torts" were among the legal classics of his day and were known and read throughout the United States. At the time of his death in 1898, it may fairly be said that he was the most distinguished legal scholar that the State of Michigan had produced.

For the purpose of stimulating research and presenting its results in the form of public lectures, the faculty of the University of Michigan Law School established the Thomas M. Cooley Lectureship in honor of its first great legal scholar. This was made possible through the William W. Cook Endowment for Legal Research.



The Use of International Law

—A Re-examination—

LECTURE I

The International Community Subject to the Law

1. The need for re-examination
 - a. *Common Law Practitioner v. International Lawyer*
 - b. *Political Realist v. International Lawyer*
 - c. *Scientist v. International Lawyer*
2. International Law and the Adjustment of Conflicting Interests
 - a. Commerce by sea in peace and war
 - b. Investments
 - c. Citizen v. alien
3. A Plea for a Modest Objective
 - a. The provincialism of early international law
 - b. The fallacy of the "outlaw" test
 - c. The fallacy of the "great issues" test
 - d. The selective community

LECTURE II

Procedures of Settlement

1. Processes of Adjustment
 - a. Lessons from labor relations
 - b. Lessons from corporate relations
 - c. International negotiations and "amiable composition"
2. Processes of Decision
 - a. Fact finding
 - b. Law finding
 - c. Enforcement
3. The Consent to Adjudication
 - a. The psychology of the litigant
 - b. General treaty provisions
 - c. The Optional Clause of the Statute of the International Court of Justice

LECTURE III

The Role of National Courts

1. Types of Transnational Problems before National Courts
 - a. Sampling United States Courts
 - b. Sampling British Courts
2. The Application of International Law in National Courts
 - a. Sampling the cases
 - b. The notion of "political questions"
 - c. Proving international law
 - d. National courts of special character
 - I. Prize Courts
 - II. United States Court of Claims
 - III. National Claims Commissions

LECTURE IV

The Role of International Courts

1. Types of International Tribunals
 - a. Arbitrators and arbitral tribunals
 - b. Mixed commissions
 - c. Permanent courts
 - d. Appellate review
2. Types of Problems before International Courts
 - a. The private plaintiff disguised
 - b. The state as the actual plaintiff
3. The Record of Performance
 - a. Sampling the cases
 - b. The selection of judges
 - c. An appraisal

LECTURE V

Problems and Prospects

1. The International Community Reappraised
 - a. Political Prospects
 - I. The Soviet Union
 - II. The Younger States
2. The New Frontiers of Science and Organization
 - a. New law for new issues
 - b. The role of the United Nations and its law
3. The Balance of Advantage
 - a. The freedom of anarchy
 - b. Submission to law

THE USE OF INTERNATIONAL LAW

A Re-examination

Philip C. Jessup

LECTURE I

The Community Subject to the Law

THURSDAY, FEBRUARY 27, 1958

LECTURE II

Procedures of Settlement

FRIDAY, FEBRUARY 28, 1958

LECTURE III

The Role of National Courts

MONDAY, MARCH 3, 1958

LECTURE IV

The Role of International Courts

THURSDAY, MARCH 6, 1958

LECTURE V

Problems and Prospects

FRIDAY, MARCH 7, 1958

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